

REPORT TO THE THIRTIETH LEGISLATURE
STATE OF HAWAII
2019

PURSUANT TO ACT 184, SESSION LAWS OF HAWAII (SLH) 2016, REQUESTING THE DEPARTMENT OF HEALTH TO SUBMIT AN ANNUAL REPORT THAT OUTLINES THE STATUS OF THE OFFICE OF HEALTH CARE ASSURANCE'S AGGREGATE NUMBER OF ANNOUNCED AND UNANNOUNCED VISITS AND INSPECTIONS CONDUCTED BY THE DEPARTMENT OF HEALTH ON THE STATE-LICENSED OR STATE-CERTIFIED CARE FACILITIES AND THE GENERAL OUTCOMES AND CORRECTIVE ACTIONS TAKEN BY THE DEPARTMENT.

PREPARED BY:
STATE OF HAWAII
DEPARTMENT OF HEALTH
JANUARY 2019

EXECUTIVE SUMMARY

Pursuant to and in compliance with Act 184, Session Laws of Hawaii (SLH) 2016, the Department of Health is submitting a report to the 2019 Legislature that identifies:

- (1) The annual aggregate numbers of announced and unannounced visits conducted by the department of health on the state-licensed or state-certified care facilities;
- (2) The annual aggregate numbers of unannounced inspections conducted by the department of health on the state-licensed or state-certified facilities as follow-up visits, visits to confirm corrections or deficiencies, or visits to investigate complaints or suspicions of abuse or neglect; and
- (3) The general outcomes and corrective actions taken because of the visits and investigations conducted by the department of health on the state-licensed or state-certified care facilities.

This report includes information on state licensing or certification as well as federal certification since the department also conducts inspections on behalf of the federal government to ensure compliance with Medicare and Medicaid requirements. The majority of federally certified facilities are also licensed by the state.

Finally, this report also includes recommendations to the 2019 Legislature.

**REPORT TO THE LEGISLATURE
IN COMPLIANCE WITH ACT 184, SESSION LAWS OF HAWAII (SLH) 2016**

Introduction:

The Department of Health is committed to ensure the health, welfare and safety of all individuals receiving health care services in all settings in the State. To achieve this goal, the department has established minimal standards for licensure and certification that is monitored through inspections and investigations. As deficiencies are identified, the department provides consultation to correct deficient practices.

Aggregate Numbers:

Announced Visits	64
Unannounced Visits	519
Total Visits	583
Announced Inspections	1,483
Unannounced Inspections	73
Total Inspections	1,556
Follow-up Visits	65
Complaint Investigations	90
Outcomes	2 involuntary closures. 40+ letters of enforcement action: freeze admissions; federal denial of payment for new admissions (DPNA); issuance of federal civil monetary penalty fines; potential termination of federal certification. \$389,135 assessed in federal civil monetary penalty fines as a result of DOH inspections.

Definitions of Terms:

“Visits” are brief occurrences designed to quickly ascertain the status of specific target concerns. They do not include inspections for license renewals.

“Inspections” are more robust occurrences for purposes of license renewals.

General Outcomes and Corrective Actions:

Most inspections result in citations for non-compliance with regulations (also known as violations of regulations). Citations are required to be corrected by the facility before the facility receives their renewed license or certification.

Of the total of 519 unannounced visits, 501 were on Adult Residential Care Homes (ARCH). Of those 501 unannounced visits, two (2) ARCHs were cited for violations regarding unsupervised residents. This represents a 50% reduction in unsupervised residents from 2017. Nevertheless, the department suspects there may be more homes that are leaving residents unsupervised or in the hands of unqualified persons. Leaving residents unsupervised or in the hands of unqualified persons is a very unsafe practice with potential for great harm to the residents. The department will continue to conduct unannounced visits and beginning July 1, 2019, will conduct unannounced inspections for license renewals and will issue fines as stated below (see Future Action).

During 2018, two residential care homes were closed involuntarily due to findings of abuse or neglect.

Over forty (40) enforcement letters were issued, mostly to federally certified institutional facilities on federal enforcement actions. Threatened enforcement action on institutional facilities included denial of payment on new admissions (DPNA) and imposition of civil monetary penalties if timely corrections were not made. Ultimately, almost all corrections were made and DPNAs were enforced on only one (1) facility with decisions pending on other facilities. Enforcement actions also resulted in the issuance of \$389,135 in federal civil monetary penalty fines on thirteen (13) cases.

Conclusion:

Annual Inspections: At residential care homes, care givers have activities that take them away from the home such as previously scheduled resident medical and dental appointments and transporting residents to adult day programs. If residents are out of the home during the day, there is no need for a caregiver to remain in the home. An unannounced annual inspection would mean that someone would need to be present in the care home for the inspection. This may require repeat visits to complete a single inspection.

All annual inspections of institutional facilities are unannounced as required by various federal and state laws, such as stated in the U.S. Social Security Act §§ 1819(g)(2)(A) and 1919(g)(2)(A), and 42 CFR 488.307, and Chapter 11-94.1 Hawaii Administrative Rules on skilled nursing facilities.

Unannounced Visits: At residential care homes, it was while conducting unannounced visits that the department discovered unsupervised residents at 2 ARCHs.

Future Action:

The department is finalizing an enforcement policy and procedure (P&P) that will identify specific violations and enforcement actions to include impacts on the licensees' license up to and including revocation and/or monetary fines. This P&P will become effective by February 1, 2019, and will standardize the department's enforcement action

on state licensure or certification. It will also require increased accountability on licensees.

Beginning July 1, 2019, Section 321-1.9 HRS, Section 321-15.6 HRS and Section 321-15.62 HRS will require that all licensing inspections on specific health care facilities, ARCHs and E-ARCHs for license renewal purposes shall be unannounced. Previously, these licensing inspections were announced.

The department will monitor the need for overtime and determine whether alternative unannounced inspection schedules could be created to avoid ongoing overtime or whether additional funding would be necessary to cover the cost of overtime.

Recommendations

Maintain statutory language that will require relicensing inspections to be conducted unannounced.